

**REMARKS:**

This paper is herewith filed in response to the Examiner's Office Action mailed on July 2, 2008 for the above-captioned U.S. Patent Application. This office action is a rejection of claims 1-30 of the application.

More specifically, the Examiner has rejected claims 1-5, 10-11, 14-15, 17-18, 20-23, and 25-30 under 35 USC 102(b) as being anticipated by Apfel (US6973299); rejected claim 16 under 35 USC 102(b) as being anticipated by Hymel (US6216015); and rejected claims 6-9, 12-13, 19, and 24 under 35 USC 103(a) as being unpatentable over Apfel in view of well-known prior art (MPEP 2144.03). The Applicants respectfully traverse the rejection.

Claims 1-5, 9, 11, 13, 15-17, 19, 22-23, 25, 27, and 29 have been amended for clarification. Claims 2-16 and 28 have been amended accordingly. Claims 8, 18, 21, and 30 have been amended for mere formality. Claims 33-36 have been added. Claim 26 has been cancelled. Support for the new claims can be found at least in paragraphs [0017]-[0018] and [0055] of the published Application. No new matter is added.

Regarding the rejections of claims 1-15 and 17-30 the rejections are seen to be improper. The Applicants submit that Apfel does not qualify as prior art against this application. The relevant dates are as follows:

Apfel: Filing date: August 1, 2003.

Present Application: PCT filing date/priority date: December 11, 2002.

The December 11, 2002 priority date of the present application precedes the earliest filing date of Apfel. The Applicants submit that for at least this reason Apfel is not prior art under 35 USC 102(b) or under 35 USC 103(a).

Further, the Applicants submit that because Apfel does not qualify as prior art against this

S.N.: 10/537,948  
Art Unit: 2617

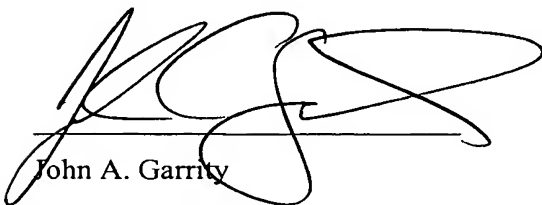
application, the Applicant makes no comment on the substance of the rejection or on the Office Action's interpretation of that reference against the pending claims.

Regarding the rejection of claim 16 under 35 USC 102(b) as anticipated by Hymel the Applicants note that claim 16 depends from claim 1. Thus, for at least the reasons already stated claim 16 can not be seen to be disclosed or suggested by the references cited. Further, the Applicants respectfully disagree where the Examiner takes Official Notice of well-known prior art. The Applicants respectfully submit that where the Examiner takes Official Notice in the Office Action is improper for at least the reason that the Examiner has not cited a reference in support of his position.

The Applicants submit that, for at least the reasons stated, the rejections of claims 1-30 are improper. The Applicants respectfully request that the Examiner withdraw the rejections and pass claims 1-36 to allowance. The undersigned welcomes the opportunity to discuss via teleconference any matters that may remain, formal or otherwise, at the Examiner's discretion.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record. Should any unresolved issue remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

Respectfully submitted:



John A. Garrity

Reg. No.: 60,470

Customer No.: 29683

HARRINGTON & SMITH, PC

Oct 2, 2008  
Date

S.N.: 10/537,948  
Art Unit: 2617

4 Research Drive

Shelton, CT 06484-6212

Telephone: (203)925-9400

Facsimile: (203)944-0245

email: [jgarritty@hspatent.com](mailto:jgarritty@hspatent.com)

### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. BOX 1450, Alexandria, VA 22313-1450.

10/2/2008  
Date

Clair F. Mian  
Name of Person Making Deposit